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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,086	05/31/2001	John M. Polo	15900.002	3827

7590 12/16/2002
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EXAMINER

BROWN, STACY S

ART UNIT PAPER NUMBER

1648

DATE MAILED: 12/16/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. Applicant's amendment, dated October 22, 2002 is acknowledged and entered. Claims 1-30 are pending. Claims 1-24 are withdrawn from consideration. Claims 25-30 are examined.

Response to Amendment

2. The following objections/rejections are withdrawn in view of Applicant's amendment:

- The objection to claim 25 is withdrawn in view of Applicant's amendment.
- The rejection of claims 25-30 under 35 U.S.C. 112, second paragraph, is withdrawn in view of Applicant's amendment. *With regard to claim 30, the method step of overlaying infected cells with agar is performed after step (b) and before step (c) of claim 25.*

Response to Arguments

3. The rejection of claims 25-30 under 35 U.S.C. 102(b) as unpatentable over Dubensky, Jr. *et al* (5,789,245) is withdrawn in view of Applicant's persuasive arguments.

4. The rejection of claims 25-30 under 35 U.S.C. 103(a) as obvious over Dubensky, Jr. *et al* (5,789,245) is maintained for reasons of record. Applicant's arguments have been carefully considered but fail to persuade.

Applicant mainly argues that Dubensky teaches that plaque assays were not used to determine titer (col. 124, lines 11-21 of Dubensky). In response, the Office has considered Dubensky's teaching found in column 124. Lines 11-21 teach that the titer of viral vectors,

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lacking structural proteins, cannot be measured in a plaque assay in BHK-21 cells. However, vectors that are provided with structural proteins can be measured by plaque assay. Dubensky teaches packaging cells containing expression cassettes that provide structural proteins. When Dubensky's vector construct is introduced into the packaging cells (col. 5, lines 64-66), the structural proteins are produced allowing for particles to be produced and detected by plaque assay (col. 19-20, bridging paragraph).

Conclusion

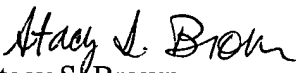
5. No claim is allowed.


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Papers relating to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 located in Crystal Mall 1. The Fax number for Art Unit 1648 is (703) 308-4426. All Group 1600 Fax machines will be available to receive transmissions 24 hrs/day, 7 days/wk. Please note that the faxing of such papers must conform with the Notice published in the Official Gazette, 1096 OG 30, (November 15, 1989).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Stacy S. Brown, whose telephone number is (703) 308-2361. The Examiner can normally be reached on Monday through Friday and alternate Wednesdays from 6:30 AM-4:00 PM, (EST). If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, James C. Housel, can be reached at (703) 308-4027. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.


Stacy S. Brown
December 11, 2002


HANKYEL T. PARK, PH.D.
PRIMARY EXAMINER